

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN CRAIG DEVINO,

Defendant.

4:11CR3096

MEMORANDUM AND ORDER

The defendant has filed a motion for compassionate release, Filing no. 65. And, his counsel has alleged that the defendant submitted a request for compassionate release to the warden but the warden has not responded within 30 days to the request. On the face of it, it appears that the exhaustion requirement has been satisfied. Furthermore, I am satisfied that there is a plausible argument that the defendant's medical condition might authorize the relief he seeks. Accordingly,

IT IS ORDERED that the United States Probation Office, specifically Supervising United States Probation Officers Kelly Nelson or Aaron Kurtenbach, shall (1) obtain the medical records of the defendant from the Bureau of Prisons¹ as soon as is reasonably possible, (2) file those medical records as a sealed document in this case, and (3) provide copies of the medical records to counsel for both parties. After I have reviewed the medical records, I will provide the government with an opportunity to respond. The government is not obligated to respond until I enter an order requiring a response from the government.

Dated this 28th day of May, 2020.

BY THE COURT:

Richard G. Kopf
Richard G. Kopf
Senior United States District Judge

¹ The defendant is currently incarcerated at FCI Englewood, Littleton, Colorado.